

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, MARCH 7, 2022

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. INS-2022-00023

*Ex Parte:* In the matter of Amending  
Rules Governing Advertisement of  
Life Insurance and Annuities

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy also may be found here: <https://law.lis.virginia.gov/admincode/title14/agency5/>.

The Bureau of Insurance ("Bureau") has undertaken a review of Chapter 41 of Title 14 of the Virginia Administrative Code, entitled "Rules Governing Advertisement of Life Insurance and Annuities", 14 VAC 5-41-10 *et seq.* ("Rules"). As stated in 14 VAC 5-41-10 A, the Rules provide "minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts." As part of its review, the Bureau has considered marketing practices in life insurance and annuity advertisements that employ the phrases "inexpensive," "low cost," and similar terms, and concerns that such terms may mislead consumers.

As a result of its review, the Bureau has submitted to the Commission a proposal to amend 14 VAC 5-41-80 of the Virginia Administrative Code. These amendments are necessary to address the concern with the use of the above-referenced phrases on an industry-wide basis in Virginia and to more closely align the Rules with guidance prepared by the National Association of Insurance Commissioners in its Advertisements of Life Insurance and Annuities Model Regulation, which addresses the use of "inexpensive," "low cost," and similar terms.

NOW THE COMMISSION is of the opinion that the proposal to amend the Rules set forth in Chapter 41 of Title 14 in the Virginia Administrative Code as submitted by the Bureau should be considered for adoption with a proposed effective date of September 1, 2022.

Accordingly, IT IS ORDERED THAT:

(1) The proposed amendments to the Rules Governing Advertisement of Life Insurance and Annuities, as set out at 14 VAC 5-41-80 of the Virginia Administrative Code, are attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose, the adoption of the proposed amended rules shall file such comments or hearing request on or before April 29, 2022, with the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2022-00023. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information). All comments shall refer to Case No. INS-2022-00023.

(3) If no written request for a hearing on the adoption of the proposed amended rules as outlined in this Order is received on or before April 29, 2022, the Commission, upon

consideration of any comments submitted in support of or in opposition to the proposal, may adopt the rules as submitted by the Bureau.

(4) The Bureau shall provide notice of the proposal to all carriers licensed in Virginia to write life insurance, annuities or variable annuities and to all interested persons.

(5) The Commission's Office of General Counsel shall cause a copy of this Order, together with the proposal to amend the rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposal on the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

(7) The Bureau shall file with the Clerk of the Commission a certificate of compliance with the notice requirements of Ordering Paragraph (4) above.

(8) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Senior Assistant Attorney General, at [MBrowder@oag.state.va.us](mailto:MBrowder@oag.state.va.us), Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy hereof shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie S. Blauvelt.

**Project 7085 - Proposed**

**State Corporation Commission, Bureau of Insurance**

**Rules Governing Advertisement of Life Insurance and Annuities**

**14VAC5-41-80. Policy costs and cost comparisons.**

A. The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor and the amount of the payment shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

B. An advertisement ~~of for a particular policy marketed by direct response techniques or a life insurance policy containing graded or modified benefits~~ shall not use the phrase "affordable," "inexpensive," "low cost" or any ~~similar term unless that fact is capable of being demonstrated to the satisfaction of the commission~~ phrase or word of similar import when the policy being advertised is guaranteed issue.

C. An advertisement shall not imply or state that all older policies are more or less costly than newer policies.

D. An advertisement of two or more policies sold as a "package" or other combination shall not direct attention improperly at the cost competitiveness of one part of the "package" when the cost competitiveness of that part is not indicative of the cost competitiveness of the "package" as a whole.

E. An advertisement of a single policy shall not direct attention improperly at the cost competitiveness of a part of the policy when the cost competitiveness of that part is not indicative of the cost competitiveness of the entire policy.

F. An advertisement of a policy at a particular issue age, sex, or amount shall not lead prospective policyholders to believe that the cost competitiveness of the policy is similar at other issue ages, sex, or amounts unless that is a fact.

G. An advertisement containing a cost comparison of two or more policies with nonguaranteed policy elements in which the method of investment income allocation differs between or among the policies shall state that fact and shall contain a brief explanation of the implications of the cost comparison.